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it's our business

newspad of the Employee Share Ownership Centre

It's a White-out at LondonDavos

A fortnight before the event, all 61 places have been taken at the World Centre conference, moved this year to London from its traditional home in Davos Switzerland. The switch was made possible by the generosity of law firm White & Case.

Numbers attending have doubled compared with last year in Davos and the international popularity has been unaffected, with delegates coming from eight countries.

The event launches with a video featuring Rafael Nadal made for Telefonica. It won top prize at the Centre's awards dinner at the Reform Club last year. That will be followed pell mell by popular speakers and expert panels and the day concludes with the hot ticket cocktail party.

The location of Davos 2017 will be decided after the event. Swiss sponsorship may return the event to its home for 18 years. White & Case has offered to host a New York Davos. The success of London paves the way for an annual British Isles summit.

International director Fred Hackworth said: "We are grateful to Bedell and Computershare for sponsoring the brochure and printing the popular handbook. The only sponsorship opportunity left is to support a draw offering free places at our next European event in Vienna.

"It is a pity to be turning people away but my chairman thought the ethics and governance subcommittee might draw the line at standing room only."

Give employees better rights to demand shares

Labour is examining ways in which to give employees a greater right to own shares in the companies where they work, said the **Shadow Chancellor of the Exchequer, John McDonnell**.

In a speech to a Co-operative Party audience in Manchester, Mr McDonnell proposed giving employees the right to request share ownership and to have their requests considered by owners and management.

Specifically, he proposed offering employees first right to buy out any company which either was being dissolved, offered in a trade sale, or about to be floated on the stock exchange.

The French Socialist government introduced last year the same *right to acquire* for employees who work for SMEs. French small business owners have to inform their employees in advance if they intend selling or closing the company, to give them the chance of putting together co-operative or share ownership structures, in order to keep it alive and/or in local hands.

"The Tories have offered a right to buy. Labour would seek to better this. We'd be creating a new right to own," McDonnell said.

Mr McDonnell's speech confirms a significant recent change in Labour policy because traditionally, Labour, egged on by the trade unions – with the honourable exception of the **Communication Workers Union** (*see story inside*) – has been lukewarm at best and sometimes downright hostile to the idea of workers becoming employee shareholders.

For his part, Mr McDonnell told the meeting in Manchester that a report by Centre member Graeme Nuttall had recommended creating a statutory right to request employee ownership with owners obliged to consider the idea: "We should look to extend this approach, offering employees first rights on buying out a company that is being dissolved, sold, or floated on the stock exchange," McDonnell said.

From the Chairman

The personal interest in employees' owning shares by Business Secretary Sajid Javid, combined with shadow chancellor John McDonnell's call for a right to request have renewed hope for stronger political support. I had been disappointed by both the Treasury and small business in the immediate post Coalition period. There are now many good plans and structures available for us to use but their success depends on oxygen as well commercial viability. The evidence for the efficacy of employee share ownership strengthens on both sides of the Atlantic: it should be a no-brainer for politicians and leaders to put their shoulders to our wheel.

Malcolm Hurlston CBE

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The Esop Centre, which backs broad-based employee share ownership, welcomed his announcement: "*The Esop Centre is very pleased that the shadow chancellor is showing keen interest in encouraging employees to ask for shares in the companies where they work,*" Centre chairman Malcolm Hurlston told **RT TV.**

"Companies where employees own more than three percent of the stock *radically outperform* FTSE firms owned by institutional and private shareholders, as the quarterly index published by the Centre shows.

"*Greater employee shareholding and participation lead to stronger companies and a better economy. The plan which the shadow chancellor should now home in on is the Company Share Ownership Plan, through which even the low paid and part timers can get a foot on the share-owning ladder,*" added Mr Hurlston.

However, the Centre supports 100 percent or majority employee ownership as a solution in SME privately-held companies in specific situations rather than as a panacea.

Labour's leader, Jeremy Corbyn, has proposed barring companies from distributing dividends unless they paid the living wage and putting in place salary curbs to stop bosses being paid more than 100 times more than rank-and-file employees.

In an attempt to help workers have a greater say over their workplaces, McDonnell's speech made an argument in favour of more co-operative ownership as the old economic strategies had "run their course". He said that the state had achieved a lot, from the NHS to the welfare system, but there was a "long labour movement tradition of decentralisation and grass-roots organisation. "There is a thread within the labour and radical movement of self-organisation, running right back even before the Chartists to those early organisers for democracy against old corruption."

The Co-op Party has already floated the idea of giving football fans the right to buy out clubs in danger of going under. Under the plan, supporters would be given six months to try to raise the cash to save their club. Mr McDonnell says he wants to go further and widen it for all businesses.

He said deep "questions of ownership, control, and democracy" had been left to one side under previous Labour governments but the party must look at radical ways of "changing the rules of the game".

"Our problem today is that we must learn to think systemically about the kind of economy we want. Where our opponents now warn and threaten about the terrors ahead, we must present a positive case for the future we all want," added Mr McDonnell.

Global Employee Equity Forum, Feb 10

The Centre's 17th global employee equity forum takes place in the City offices of Centre member **White & Case LLP** in Old Broad Street EC2 with registration of delegates at 0845, then the welcome address by Centre chairman Malcolm Hurlston at 0900 prompt.

Centre member **Francis O'Mahony**, head of employee share plans and share registration at **BT** (governance and compliance)**,** will deliver a case study focused on BT's international employee shares portal. Francis will discuss what employee participants from 25 countries do when their BT share plans mature. He will assess whether their appetite for share plans is increasing and which they prefer – share or option based plans? He will ask too how easy is it for employees to keep and move shares as part of their financial well-being.

A buffet luncheon will be provided by White & Case, which is sponsoring a drinks and canapés reception for participants and special guests immediately after the formal programme finishes at 1735 approx.

The delegate handbook is sponsored by Centre member **Computershare** and the conference e-brochure is sponsored by trustee member **Bedell Group.**

Although the event is now fully subscribed, there is a waiting list held by Juliet Wigzell, in Centre HQ. The Centre will require immediate payment of your conference fee, should you wish to attend.

To register, please email **Fred Hackworth** at fhackworth@esopcentre.com ***with copy to*** **the Centre** at esop@esopcentre.com

This event offers delegates six hours of credits under the Law Society's CPD programme.

Delegate fees: Practitioner members, £385; non-members £595; Plan issuers £195 (All prices are subject to the addition of VAT).

Biz Secretary promises to promote Eso

Centre chairman **Malcolm Hurlston** obtained a pledge from **Business Secretary Sajid Javid MP** to commit himself and his department to advancing the cause of broad-based employee share ownership within the UK. Mr Hurlston called for greater commitment to Eso from the government when he met the Cabinet minister in London after recent official statistics implied that the move to wider share-ownership at work had almost stalled since the General Election last summer.

Although the annual statistics released by the Office of National Statistics on share scheme participation are somewhat opaque, it is clear that the level of broad-based employee equity plan participation in France – with 3.7million employee shareholders – is now way ahead of the UK.

The Centre chairman praised the government for following through on the Royal Mail privatisation, during which 150,000 postal employees received ten percent of the company equity in the form of a giant free share allocation. Mr Javid personally ensured that the posties received another one percent of the equity – in the form of 103 additional free shares each – when the last segment of state-held shares in Royal Mail was sold off last autumn.

Nevertheless, further free share allocations to employees, which had been expected from the sale of other state assets – especially finance houses rescued by taxpayers after the 2007-8 crisis – so far have not materialised. This may be largely due to the current turbulence in world stock markets.

Mr Hurlston wrote to Mr Javid after their meeting to say: "It was a great pleasure to meet you and hear your commitment to employee share ownership. Your intervention in Royal Mail showed what can be done. The Centre has worked closely with Dave Ward (general secretary of the **Communication Workers Union**) as well as the company.

"However we face a gap in the Department's official interest. For most of the Coalition period, the agenda was driven by trust based, proto co-op interests. Had it not been for Michael Fallon, then a BIS minister of state, Royal Mail employees would have had little or no direct holding.

"Support for employee share ownership is wanting, but it has lots to contribute if your Department can get behind it. The Royal Mail free shares allocations added 150,000 individual employee shareholders, increasing the estimated UK participant numbers in share schemes to two and a half million.

"Nevertheless, many more employees can be brought in especially through the underused Company Share Options Plan, a low cost way of offering options to all employees, even part-timers and the low paid. I hope your interest, which we greatly appreciate, can be reflected within the Department at ministerial and official level."

BT to gain 12,000 more employee shareholders

BT Group's impending takeover of mobile phone network **EE** brings with it the prospect of 12000 more employees who are likely to join BT share schemes, once the deal goes through. The takeover has been given final clearance by the Competition and Markets Authority (CMA). The £12.5bn deal brings together the UK's largest fixed-line business and the largest mobile telecoms business. The CMA said it was unlikely to harm competition as BT was 'smaller in mobile' and EE a 'minor player' in broadband. The deal creates a communications giant covering fixed-line phones, broadband, mobile and TV.

Rangers EBT case (Murray Group Hldgs v HMRC): appeal permission sought

An application, by Murray Group Holdings, to the Scottish Court of Session for permission to appeal to the Supreme Court in the Rangers EBT case will be heard on February 24.

See http://deloi.tt/1RSQw4W. If it is refused, a further application for permission can be made direct to the Supreme Court. This hotly contested case revolves around whether a loans scheme set up by the former owners of Rangers FC, using an EBT, to help its soccer players financially was genuine, or effectively a disguised remuneration scheme. HMRC was pleased by the ruling of the Supreme Court that the scheme was disguised remuneration. This left dozens of companies, who have used similar loans schemes, vulnerable to receipt of Accelerated Payment Notices from HMRC.

Sharesave contributions went missing

The Telegraph rescued a former **Alliance & Leicester** employee shareholder whose SAYE contributions went missing after the building society was taken over by Spanish based bank **Santander.** Ms Peta Gibson, who lives in the Leicester area, was misinformed by Santander employees about the whereabouts of her money after the five-year Sharesave scheme matured. By then, Ms Gibson, who had taken voluntary redundancy after 23 years with the A & L, learned that her old account number was no longer recognised by Santander's IT system.

She told the newspaper: "*Santander will not return funds from an existing Sharesave scheme as no one knows how to find it or calculate the bonus. While working for Alliance & Leicester (now Santander) for more than 23 years, I participated in many Sharesave schemes which were actioned smoothly. In 2010, I was made redundant (my choice) and was allowed to continue to pay into the scheme until it reached the five -year total. I received a yearly statement detailing the amount saved. However, after the final payment was made, the 'intention' letter, which had in the past always arrived promptly, did not come.*"

Telegraph columnist Jessica Gorst-Williams reported: "You queried this and Santander could not carry out the security checks needed as the *account number that it had supplied for the past five years was now not recognised on its system*. Then Santander said all the Sharesaves had been moved to Yorkshire Bank. You made 18 telephone calls to Santander, visited the branch again and made a special journey to Yorkshire Bank without the issue being resolved. With the money's whereabouts still unclear, Santander assured you that the matter would be sorted out by the time the payment was due to be collected two years on, as you had chosen to extend the term to obtain a better bonus. Despite this, in 2015, you had to chase again with more calls which involved time off work. I approached Santander and it then provided personalised statements and paid your £10,545. In fact, your funds had been with Santander all the time. It 'sampled' the phone calls in which you had been given incorrect information about where the account was held," said Ms Gorst-Williams. "In view of the unintentional distress caused and the trouble you have been put to, Santander has sent £500 compensation. It says it is reviewing preventive measures to stop this happening again," she added.

*Share plan administrators have to take great care to secure data about participating employees whose companies are later acquired by large corporations, especially when the latter are based overseas.

*Usually, companies lose their share schemes when they are taken over and the participants are either paid off, or offered incentives to transfer the value of their 'old' employee shareholdings into the purchaser company's share schemes. ***Sadly, in some cases, share schemes are closed down after a takeover and not replaced, a practice against which the Centre is campaigning.***

French free shares come good

Almost 4,000 staff of the French advertising and public relations company **Publicis Groupe,** headed by **Maurice Levy**, each received 50 free shares last month worth €60 each, giving them a windfall worth c.£2,300 per head. The pay-out to staff in 16 countries came as the four-year incentive scheme matured.

End is nigh for salary-related pensions

Less than ten percent of the UK's 350 largest quoted companies still operate defined benefit, or so-called *gold-plated*, pension schemes for their employees, JLT Employee Benefits reported. Only 11 of the FTSE top 100 companies still allow existing employees to participate in defined benefit (linked to salary levels) occupational pension schemes and only 23 of the FTSE 250 companies (the next largest after the FTSE100) do the same, said JLT. It expects the number of companies offering gold-plated pension schemes to shrink to zero within a year or so, as their pension fund deficits balloon towards and even beyond £1bn each.

JLT said that the combined pension fund deficit among FTSE 250 companies had increased to a record £81bn at June 30 last year. At that time, 26 FTSE 250 companies had disclosed pension liabilities of more than £1bn, the largest of which was **FirstGroup**, the bus and train operator, with a fund liability of £4.9bn. Fourteen FTSE 250 companies have disclosed pensions liabilities greater than their stock market value. FirstGroup's liability is more than three times its market value, while **Go-Ahead Group**, **Phoenix Group, Balfour Beatty** and **Carillion** all have pension liabilities equivalent to almost double their stock market value.

The situation could get even worse, according to Charles Cowling, a director of JLT Employee Benefits: "The ongoing spend and service costs of defined benefit pensions, before any allowance for deficit spending, is a burden that many boardrooms would like to remove altogether. The impact on corporate decision-making for those companies with significant pension scheme liabilities should not be underestimated." He said changes to pension rules due in April would hasten their demise. An end to *contracting out* – where a scheme member forgoes extra state pension in return for a notionally higher workplace pension contribution – means companies that run defined benefit schemes will face higher NIC contributions if they want to keep their scheme open. Additionally, lower limits on annual and lifetime pension contributions will reduce the incentive for company managers to keep schemes open, as they are less likely to benefit themselves.

The effect of large pension deficits has been to reduce productivity among companies, JLT said, and even put the future of some at risk. Companies with large pension deficits to service have less money to invest or pay to shareholders, while the burden makes them less attractive to potential buyers and less able to raise money from banks.

Defined benefit pensions are now readily available only in the public sector, although many of these schemes have become less generous because of government attempts to cut costs to taxpayers. Employees unable to join defined benefit schemes must instead pay into a *defined contribution* scheme where their money, plus contributions from the employer, is invested, leaving employees with all the risk. Private companies have been closing *defined benefit* pension schemes, including those based on an employee's final salary, to new joiners for many years. Now the few that continue to allow current scheme members to accrue benefits are predicted to axe such schemes.

EBA banking bonus cap: detailed guidance

Whether the **European Banking Authority (EBA)** final recommendations on banking bonus capping will be adopted and the legislation amended before the guidelines come into force next January will now depend on political consensus between the EU's Council of Ministers, the Parliament and the Commission.

The EBA does not propose any exemptions to the bonus cap (limiting variable remuneration to 100 percent of fixed remuneration, or 200 percent with specific shareholder approval), which will apply to all CRD4 firms from January 1, *next* year.

Days before Christmas, the EBA published the final guidelines on 'sound remuneration policies,' together with a legal opinion on the application of proportionality. The EBA is delaying the onset of the new guidelines until January 1 2017, a year later than originally intended. Therefore, firms do not need to change their existing compensation practices for the 2016 performance year.

It is standing firm on the idea that the maximum ratio of fixed to variable pay should apply to all institutions and individuals in scope. The guidelines are applicable to banks and investment firms, focusing on staff who have a material impact on a firm's risk profile. In the meantime, the existing 2010 guidelines will continue to apply but supplemented by the published legal opinion on the acceptability of proportionality under CRD4. To add to the potentially conflicting regimes, local regulators may issue their own guidelines in anticipation of the EBA guidelines coming into force.

The EBA is recommending legislative changes to CRD4 to ensure a uniform approach to proportionality, but seeks potential exemptions for smaller and non-complex institutions, or for individuals with low variable pay. It wants to introduce specific exemptions which would permit smaller firms to relax the requirement for deferral of up to 60 percent of variable pay and the payment of up to 50 percent of variable pay in shares or other instruments. If implemented by local regulators this will extend the bonus cap to all CRD4 firms, including all banks, asset managers and other investment firms regulated under CRD4.

One aspect of the draft guidelines which had worried institutions was the inclusion of Long-Term Incentive Plans (LTIP) in the calculation of the bonus cap applied to the ratio by which an individual's variable remuneration can exceed fixed remuneration. The EBA has revised the final guideline in response to consultation. Rather than requiring LTIP awards to be included at the time performance conditions are met, awards will be counted towards the bonus cap in the financial year in which the LTIP is granted. Special rules will apply to new joiners who receive a sign-on LTIP award based entirely on future performance. Retention bonuses will count towards the bonus cap. Firms will need to count the retention bonus towards the cap either on a linear basis with a pro-rated annual amount for each year of the retention period, or at the end of the retention period when the full award is made.

Tighter rules on bonus buy-outs

Banks in the UK that 'buy out' a new executive recruit's deferred bonuses which would have been paid by the former employer had he/she stayed with them, would be required to apply malus or claw-back to such buy out awards if the former employer later establishes that it would have done so, the **Bank of England (BoE)** regulators proposed.

The BoE wants to end the practice of departing executives escaping potential bonus repayment demands after they join new companies. When a new employer buys out an employee's cancelled bonus, the executive becomes insulated against the possibility of his/her awards being subject to ex-post risk adjustments through the application of either malus (withholding or reduction of unpaid awards) or claw-back (recouping of paid awards). The reasons for malus or claw back would include at least any individual misconduct or risk management failings while in the previous job, but not any downturn in the old employer's financial position, said the **Prudential Regulation Authority (PRA).**

The proposals would extend existing remuneration rules to situations where a bank compensates a new employee when a deferred bonus that would otherwise have been due from a previous employer is forfeited. The PRA said that the practice had the potential to undermine the effectiveness of the remuneration rules in a way that enabled individuals to "effectively evade accountability for their actions". It plans to introduce rules to manage contract buy-outs through the contract between the ***new*** employer and employee. The employment contract would allow for malus or claw-back to be applied should the old employer determine that the employee was guilty of misconduct or risk management failings. The proposed rules would allow new employers to apply for a waiver if they believe the determination was unfair or unreasonable. A PRA consultation on the issue will run until mid April.

Remuneration expert Steven Cochrane of **Pinsent Masons**, said that whilst on the face of it the proposal was a "conceptually pragmatic solution" to the issue, the system could prove difficult for banks to manage in practice.

The PRA and **Financial Conduct Authority (FCA)** have long been concerned that buy-outs by new employers of remuneration forfeited by Code staff when they leave their old firms had the potential to subvert the overall operation of the Remuneration Code. While a Code staff member at a Level 1 or 2 bank had had his/her original remuneration subject to malus and claw-back by the old employer, bought-out remuneration was in practice immune from recovery by the old employer.

On the move

A friendly face members will see again at our Global Employee Equity forum in London on Wednesday February 10 belongs to **Peter Mitchell,** the man who came back from retirement to rejoin the industry. Peter is based in Jersey, as an associate director at **Capita Asset Services.** He told *newspad: "Following my departure from Elian in August 2014, in March 2015 (yes I retired for 9 months!) I joined Capita in a business development role."* Members can contact Peter at: 12 Castle Street, St Helier, Jersey, JE2 3RT T: +44 (0)1534 847261 E: peter.mitchell3@capita.je

Esop Centre member **Global Shares**, an industry-leader in the global equity plan administration arena, named **Lee Taylor** as the head of client management for all regions outside North America. Lee worked most recently worked for Xerox, managing corporate clients from an employee share plan perspective. Lee's new position is based in London. **Tim Houstoun**, ceo at Global Shares, said: *"We are thrilled to welcome Lee on-board the Global Shares team. His experience of client management in the share plan industry is second-to-none. He is joining the company at a very exciting stage, as our portfolio of clients is rapidly increasing and our software is reaching new and emerging markets globally"*

Jon Cartmell has been appointed as a director of Centre member **Sanne Group**.

Andrew Bailey is cutting short his tenure as deputy governor of the Bank of England to become ceo of the regulator, the **Financial Conduct Authority,** which has been without a full-time boss since last September, after **Martin Wheatley**, the previous incumbent, was forced out. Bailey's appointment was a surprise to the City and comes before his term at the BoE ends in April 2018. The BoE governor, **Mark Carney**, said it could take up to six months for Bailey to take up the new role as he will not leave until his successor is found. The FCA is responsible for clamping down on bad behaviour and has handed out a string of record fines for rigging foreign exchange and Libor markets.

CONFERENCES

Jersey share scheme trustees conference early bird offer to end soon

The next Esop Centre share scheme trustees conference will be held at the Royal Yacht Hotel in St

Helier on **Friday April 15 2016**. Organised in conjunction with the Society of Trust & Estate Practitioners (STEP) Jersey, the annual half-day conference is an industry-leading event for all those interested in share schemes and employee benefit trusts.

You will need to book before February 14 to take advantage of our three for two early offer. This is available to both members and non-members. The cheapest ticket is free.

Confirmed speakers so far are **David Craddock** of David Craddock Consultancy Services, **David Pett** of Pett Franklin, **Graham Muir** of Nabarro, **Paul Malin** of Haines Watts, and **Rosemary Marr** of STEP Jersey. Topics include ESOP share valuations, JSOPs, the increase in employee shareholder shares and the link between ESOPs, leadership and staff retention.

This year's trustee panel will discuss the attitudes of practitioners towards the administration of legacy schemes and will include **Helen Hatton** of Sator Regulatory Consulting and **Nancy Chien** of Bedell.

Remember that attendance will qualify for 3.5 hours CPD credit with the Law Society.

Delegate Prices:

Esop Centre and STEP members:	£325
Non-memebers	£450

To register your interest in attending, please email the names and contact details of all delegates to esop@esopcentre.com or call 020 7239 4971.

In addition to Guernsey, further seminars are under consideration in the Isle of Man and BVI.

VIENNA:

Centre 28th annual conference June 2 and 3, 2016

Attractive sponsorship opportunities are on offer for the Centre's 28th annual international employee equity conference, which takes place in Vienna on **Thursday/Friday, June 2 & 3** this year. Various levels of co-sponsorship can be purchased, including whole event (£3,250), entitling the purchaser to full branding rights & free seats – and separate sponsorship offers for the conference cocktail party (£1,000) and our Vienna e-brochure logo (£550), plus repeat mentions in both *newspad* and on the Centre events news website until August in all instances.

The elegant five-star **Steigenberger Herrenhof Hotel,** in central **Vienna,** will host this showpiece event, which will feature presentation topics from Austrian & German companies, as well as from the UK and the US, such as **Baker & McKenzie**, **MM & K**, **Pett Franklin, Strategic Remuneration, Voestalpine** and **Butcher Joseph**, the St. Louis-based investment bank.

Dr. Barbara Kolm, Director of the **Austrian Economics Center,** will be among our conference panellists. In addition, Centre trustee members have promised to co-sponsor this popular event.

Two exceptional case studies are already in place in our draft programme:

**Maintaining Employee Ownership While Achieving Growth*, which features a US employee-owned company whose objectives are to maintain its employee-owned status while positioning itself for continued international expansion. Highlights include corporate restructuring considerations, designing management incentives, and improvements to its balance sheet. This double-header will be delivered by Keith Butcher, managing partner, ButcherJoseph assisted by the ceo of the US -based company.

**Bundled employee shareholder rights at* Voestalpine, an Austrian steel company, is the second case study. More than 24,000 employee shareholders are involved in a structure which gives them voting rights in a collective voice via a foundation.

An informal low cost delegates' dinner will be held in Vienna on **Wednesday June 1**, the night before the conference begins.

The 100 year old Herrenhof Hotel is situated in **Herrengasse,** near the Kohlmarkt and Golden Quarter in the old city centre, is classified by UNESCO as part of a World Cultural Heritage site and is a few minutes' walk away from major historic landmarks, such as the Hofburg Palace, Café Central, the Spanish Riding School, the Sisi Museum, the state opera house, Burgtheater (Imperial Court Theatre) and the gothic St. Stephen's Cathedral.

Prices for the conference package of two nights' accommodation in the five-star Herrenhof Hotel (on half-board basis) + conference + bound delegate pack + cocktail party invite are:

Speakers:	member practitioners	£915
	plan issuers	£525
Delegates:	member practitioners	£1055
	non-member practitioners	£1750
	member issuers	£635
	non-member issuers	£745

NB: No VAT is added to these fees, as this event takes place outside the UK

If you plan to either sponsor, speak, or attend as a delegate, at the Centre's Vienna conference, please send an e-mail **without delay** to Centre international director Fred Hackworth at fhackworth@esopcentre.com, with copy to the Centre at esop@esopcentre.com as getting more rooms at a similar price will be difficult, once our pre-booked allocation is exhausted.

Reward plan drives investors batty

FTSE 100 giant **British American Tobacco** (BAT) has ignited a shareholder revolt over a controversial new pay plan that could see its ceo take home about £10m, *The Telegraph* has learnt. BAT has angered its big investors by proposing performance-related share awards for ceo Nicandro Durante, worth up to five times his salary and a bonus valued at up to two -and-a-half times his base pay if certain targets are met. His salary was £1.2m in 2014. At present, the BAT boss's Long-Term Incentive Plan (LTIP) is limited to a maximum of four times his salary and his annual bonus capped at two times base salary.

"I don't think it's necessary to keep pushing these levels, frankly," said one top ten investor, adding they planned to "push back" against the tobacco giant, which seeks approval to boost the package of its finance director, Ben Stevens, as well. "They're just not underpaid and this is a relatively simple business to run."

The new pay policy is in the frame as the current one expires after ten years. It will be voted on at its agm in April.

The new row emerged as shareholders revealed that they rejected an even bigger package for Mr Durante last year, when BAT's remuneration committee tried to secure an LTIP six times his salary, a level that one investor described as "ludicrous". There was anger too over his bonus in 2012, a year after he was appointed ceo. BAT's remuneration committee is led by non-executive Kieran Poynter, who has been chairman since last May.

The company's results have been hurt by sharp falls in emerging market currencies, with revenues falling 8.4pc to £13.97bn in 2014 and pre-tax profits down 16.4pc to £4.8bn. The awards that BAT executives have netted from their earnings-linked LTIPs have fallen because of the foreign exchange hit. Mr Durante received £3.6m in total in 2014, including a salary, pension, bonus, and other benefits, down from £6.7m in 2013. The company wants to alter the terms of new awards so that they are based on BAT's performance on a *constant* currency basis – to remove the effects of volatile foreign exchange rates – in a move that met resistance from investors. "You can't just change it to suit how currencies are working for you at that time," said another BAT shareholder. In addition, investors are questioning the way BAT draws up its remuneration proposals. The company looks at pay at a wide range of firms, including advertising giant WPP and oil company Shell, to gauge what its management should receive. Investors believe it is "debatable" whether the right comparisons are being drawn.

A BAT spokesman said: "The reason we are talking to our shareholders is because our LTIP is due for replacement next year after ten years. So like many other companies, in line with best practice, we're talking to our shareholders about a number of aspects of our remuneration policy. Our proposals have not been finalised, so it would be inappropriate for us to comment on the detail at the current time."

Top dog reward in SMES rises fastest

MM&K and **Manifest**'s latest survey shows that increases in both salary and total remuneration awarded (TRA) have been modest (two percent for the Top FTSE100 companies) in the latest year reported by companies. However, the Government-defined Single Total Figure of Remuneration (STFR) increased by an average of *ten percent* for the top 100 companies, mainly as a result of good three-year shareholder returns, which boosted payments from equity-based long-term incentives.

TRA combines the annual fixed pay and benefits with

Company	Ceo Single Total Figure of Remuneration
WPP	£42 m
Shell	£18 m
Rio Tinto	£16 m
RELX	£12 m
Reckitt Benckiser	£11 m
Sky	£4.9 m (but TRR of £16 m)
Aberdeen Asset Management	£4.8 m (but TRR of £16 m)

By **excluding the outliers**, a better indication of the underlying year-on-year change is unveiled:

FTSE 100 CEO – average single total figure of remuneration

	All FTSE 100 CEOs	Year-on-year change	Excluding the highest and lowest five	Year-on-year change	Reduction if outliers are excluded
This year	£4,274,000	2.8%	£3,861,000	0.3%	£413,000
Last year	£4,156,000	-8.3%	£3,851,000	-10.5%	£305,000
Prior year	£4,534,000		£4,305,000		£229,00

the bonus and the long-term incentives (LTI) awarded. In order to calculate the *award* value of the LTI and TRA, the survey uses the **Expected Value** of performance shares and **Fair Value** of share options. TRA is the best measure of remuneration committee decision trends.

For more information and to buy the survey, please contact Tracy.Smith@mm-k.com or phone 020 7283 7200. The survey is priced at £495 for companies and investors and £750 for advisors (both plus VAT where applicable). Manifest issuer licence holders receive a discount.

NHS bigwigs in the trough

NHS hospital chief executives have been given pay rises of up to £35,000, with the highest annual earnings reaching a record £340,000, a *Daily Telegraph* investigation uncovered. Despite government pledges that the most senior NHS managers would have their pay frozen, 40 percent of trusts increased executives' wages by at least £5,000 during 2014-15. Some managers' earnings rose by almost a quarter, the findings from more than 200 NHS trust boards show. Patients' groups accused the NHS of "scandalous excesses" at a time when the health service is facing the greatest financial crisis in its history. Janet Davies, ceo of the Royal College of Nursing said: "*Nursing staff have been repeatedly told that there isn't enough money to improve their pay, even after years of pay restraint. To learn that many senior NHS staff are enjoying pay rises and bonuses larger than a full year's salary for the average nurse, while nurses struggle to make ends meet, is immensely demoralising.*"

The highest increase - £35,000 - went to Sir Andrew Morris, at Frimley Health NHS Foundation Trust in Surrey, taking his earnings up to £215,000. The 19 percent rise followed a takeover of another nearby NHS trust. The fd, Martin Sykes, received a 19 percent, or £25,000, increase in earnings too, taking them to £155,000. Nicola Ranger, the director of nursing, enjoyed a 23 percent boost, taking her earnings to £135,000. Simon Barber, ceo of 5 Boroughs Partnership trust in the North West, was paid £200,000 during 2014-15 – a rise of £25,000 thanks to a pay bonus. David Sloman, ceo of the Royal Free London Foundation Trust received a £20,000 rise, taking his earnings to £240,000. Lewisham and Greenwich trust in south-east London awarded £20,000 pay rises to its ceo, Tim Higgingson, whose salary rose to £195,000, and to its director of nursing, Claire Champion, boosting her earnings to £150,000.

Fat Cat Tuesday: Ceos in Britain's top companies had earned more this year by the end of the second working day than the average UK employee will throughout 2016, said the left-leaning High Pay Centre (HPC). The think-tank said that ceos of firms in the London Stock Exchange's FTSE 100 index had earned more than the UK average annual salary of £27,645 by late Tuesday afternoon. "Fat Cat Tuesday again highlights the continuing problem of the unfair pay gap in the UK," said HPC director Stefan Stern. "Over-payment at the top is fuelling distrust of business, at a time when business needs to demonstrate that it is part of the solution to harsh times and squeezed incomes, and is promoting a recovery in which all employees can benefit." FTSE 100 ceos gained an average £4.96m in total reward in 2014, and the HPC found that even if they are assumed to work long hours with few holidays, this is equivalent to hourly pay of more than £1,200.

Reward row at easyGroup

Sir Stelios Haji-Ioannou is poised to block pay deals for directors at **easyHotel**, in the latest battle in his war on high wages. The billionaire investor objected to the rewards on offer to directors at several companies in which he owns a major stake, including **easyJet** and **Fastjet**, the low-cost African airline. His latest intervention came before easyHotel was due to announce its pay arrangements to investors at the group's agm. In a statement to shareholders, Haji-Ioannou said **easyGroup** wanted to "register its concern over the proposed cost plan associated with the execution of the company's strategy". He pointed to predictions by the firm's house broker **Investec** that while revenue would have trebled between 2013 and 2017, costs would have increased fourfold.

"Net profit will have been nearly halved as a direct consequence," said easyGroup, which plans to vote against the firm's pay report and abstain on every other issue. EasyGroup added that it was "supportive of the easyHotel board" but called for the company to adopt a "lean overheads and low unit cost philosophy". As Haji-Ioannou owns 49 percent of the equity, he had a strong chance of defeating the resolution to approve its remuneration report.

The company was due to announce details of a share-based incentive plan that could see directors paid a further 200 percent of salary. This is part of an arrangement agreed with Vieilledent and Parsons when they joined the company last year. EasyHotel's annual report says this pay structure allows it to "attract, retain and motivate executives of the highest calibre but without paying more than is necessary for this purpose".

Deals for the company's new management team include a host of bonuses and incentive plans that could see their pay packets skyrocket. Ceo Guy Parsons, recruited from **Travelodge** last year, picked up £33,465 for less than two months' work in 2015, equivalent to £250,000 over a full year - more than twice as much as the £115,625 that his predecessor, Simon Champion, took home in 2014. But the annual report revealed Champion was handed termination payments worth £160,000 after being ousted in favour of Parsons. This included an additional payment, on top of his contractual entitlement, worth £50,100. New finance chief, Marc Vieilledent, received almost £100,000 for three months and 25 days' work, equating to about £170,000 over a full year. He was handed a £35,000 signing-on fee. Overall, easyHotel's directors cost the company £650,000 in 2015, compared to £195,000 in the previous year. They will be able to earn up to double their basic salary in 2016 thanks to a cash bonus scheme linked to profitability.

Car accessories and cycle retailer **Halfords** slashed its executive and management bonuses by a total £2m after struggling to increase overall sales during the last quarter.

Four times more EO firms than 20 years ago

The number of employee-owned firms in the UK is about four times larger than in the mid-1990s, partly due to a big rise in business succession cases, said a report by The White Rose Employee Ownership Centre.

"Following recent policy initiatives, there is currently considerable interest in employee ownership within the business community," said report authors Andrew Pendleton, Professor of Human Resource Management at Durham University Business School and Andrew Robinson, Professor of Finance and Accounting, University of Leeds Business School.

"A wave of conversions took place in the late 1980s and early 1990s, often using an Esop-type structure. After a lull in the late 1990s, conversions to employee ownership picked-up in the 2000s, with the pace escalating from around 2010."

They define employee ownership as at least *25 percent ownership* by or on behalf of all or most employees. The average level of employee ownership in their sample was 85 percent. Data on ownership and governance was collected on 109 firms out of an estimated total of 250-280 employee-owned companies in the UK.

Their research project aimed at establishing the size of the employee-owned sector; identifying the ownership and governance characteristics of employee-owned firms; considering the factors promoting employee ownership and to evaluate the performance of employee-owned firms.

Employee ownership occurs in four main contexts: business succession (32 percent of the sample – twice as more popular than 20 years ago), privatisation (15 percent), owner conversions to widen ownership (24 percent), and start-ups (23 percent). In Britain very few employee ownership conversions are rescues of failing firms. The level of employee ownership is similar across these four contexts but there are differences in governance characteristics and in the means by which employee ownership is achieved (trusts versus direct ownership).

Employee ownership through succession arises when business owners want to exit but do not want to sell the company to a competitor or to pass it on to a family member. In most cases the owner sells the ownership share to the trust but sometimes owners gift the company and in some instances owners either defer the payment or provide a loan to the trust to purchase the shares. In others, the trust secures an external loan to purchase shares from the owner, backed by future income streams. There has been a steady expansion of these cases in recent years: whereas they accounted for 16 percent of employee-owned firms in the late 1990s they are now double this at 32 percent.

Ownership conversion in these cases is nearly always instigated by the owner and the design of the ownership and governance structures typically reflects this. Employees often have little direct involvement in the process and sometimes only become more deeply involved once the conversion has taken place. The level of employee ownership is typically fairly high (average employee ownership is 87 percent), providing protection against acquisition by other firms. There is widespread use of employee trusts amongst these firms (83 percent of cases) tempered by the view of some exiting owners that direct ownership is more likely to lead to 'responsible' ownership.

The paper identified the main ways in which employee ownership operates as: EBTs or Employee Ownership Trusts, direct share ownership or membership, and hybrids of trust and direct ownership.

Of the firms surveyed 28 percent achieved employee ownership exclusively through an EBT or EOT, 43 percent used direct ownership or membership and 27 percent a mixture of trusts and direct ownership, their report said.

The report found that sectoral distribution of employee -owned firms is 22 percent manufacturing, 45 percent business services (information and communication, finance, professional, scientific, technical, and administrative activities), and 21 percent personal services such as education, health, and social services. Most companies in the latter category are public-sector spin-outs. Employee ownership is very marginal in construction (five percent of the sample) and in wholesale and retail (seven percent of the sample).

The long-term factors favouring the development of employee ownership are identified as the shift from manufacturing to services, and a corresponding growth in the importance of human capital, and economic insecurity. The financial crisis of 2007-8 heightened awareness of alternative forms of corporate organisation. Political action is a very important influence, the authors said. Regulatory initiatives remove barriers to employee ownership and provide incentives to convert to employee ownership. Privatisation has been important too.

"The initial UK Esop in the 1980s was developed by a few professional services providers, who were able to weld together various legal instruments such as employee benefits trusts and profit sharing schemes to create feasible means for converting conventional firms. Their role model was the Esop, which had developed in the US after the 1974 ERISA legislation and their interest in this stemmed in part from the perceived shortcomings of the hitherto main form of employee ownership – the worker co-operative. One of the appeals of the emergent Esop form of employee ownership was that worker ownership could be combined with conventional forms of company management," said the report.

The John Lewis, employee trust and profit-sharing based form of indirect ownership received a substantial filip recently when the 2014 Budget created Employee Ownership Trusts (EOT) alongside tax breaks on bonuses paid with companies with a majority EOT. The authors said: "The membership model is not usually suitable for raising capital to bring about an ownership conversion but can be appropriate where conversion does not involve a substantial purchase price. Examples include transfers of employees to newly-formed organisations with no prior trading history or where there are few physical assets. This form of ownership is common in the public service spin-outs from central and local government and the NHS which have been taking place since the late 2000s. "A notable feature of many of these public service 'mutuals' is that service users can become members too. For instance, Explore – the spin-out of library services from the City of York Council – will become two-thirds owned by members of the local community and one-third owned by its staff.

The trust-based form of employee ownership is not immune from re-conversion to conventional ownership: if trustees have clear grounds for believing that it is in the interests of the beneficiaries to liquidate the share-holding in the company their fiduciary duty is to implement these wishes. This is what happened to the bus company Esops during the latter half of the 1990s, to the extent that substantial employee ownership disappeared from the bus industry, added their report.

In the health service spin-outs, ownership is usually offered directly to the workforce, typically in the form of £1 shares. Subscription by employees, along with users, gives them membership rights. The typical subscription level within these organisations is around 80 percent of the workforce. There is greater use of EBTs in local authority spin-outs but ownership is nevertheless mainly vested in direct, individual ownership. Unlike business succession and sharing ownership conversions, these conversions are typically instigated by managers and employees, often with substantial trade union involvement. As a result, there tends to be extensive employee involvement in governance. There are worker directors in 69 percent of cases and employee councils in 62 percent (some companies clearly have both).

In the Finance Act 2014 measures were implemented to encourage trust-based employee ownership. Owners selling 50 percent or more of their company to an Employee Ownership Trust (EOT) were exempted from CGT on the growth in value, whilst firms with at least 50 percent ownership by a trust became able to award profit shares to employees that are exempt from income tax up to a value of £3,600 each year. This was designed to mirror the tax reliefs available in the SIP scheme for distributions of shares in direct ownership schemes.

"These legislative changes have helped to stimulate a great deal of interest in employee ownership and there has been a wave of conversions using the EOT form. Some existing employee-owned firms have changed their ownership structure to incorporate an EOT. The justification for such conversions is that they counter-balance obstacles to employee ownership, e.g. the expense of establishing trust structures (where used), a lack of awareness and knowledge of employee ownership amongst professional advisors, as well as amongst business owners and a perceived unwillingness of UK financial institutions to provide support for employee ownership conversions.

"The support for employee ownership by the 2010-2015 Conservative-Liberal Democrat Coalition was unprecedented in Britain. It is perhaps best explained by competition between the two government parties, with the Liberals in particular keen to introduce policies that would give it a distinct identity within a government in which it was a minority member," added their report.

"Policies to support employee ownership during privatisation emanated from the Treasury and Cabinet Office, primarily controlled by the Conservatives, whilst policies to promote employee ownership conversions during business succession were introduced by the Department of Business, Innovation and Skills, headed by a Liberal-Democrat. Policy experts, lobbyists, and 'flagship' employee-owned firms, aided by policy entrepreneurs in the employee ownership community, were able to exploit this competition to push employee ownership further onto the political agenda. With the election of a Tory Government in May 2015, the prospects for further development of employee ownership are unclear."

The Centre takes the view that EOTs and other steps by members have already changed the landscape, irrespective of further political interest. It has started discussions about leading new initiatives.

UK-Germany Double Tax Protocol

The Protocol to the UK/Germany Double Tax Convention signed on March 17 2014 entered into force on November 29 2015. It applies in Germany from January 1 2016. In the UK, it applies from April 6 2016 for income and capital gains taxes and from April 1 2016 for corporation tax. It amends the articles on business profits, government service and members of diplomatic missions. See http://deloi.tt/1np5Xqu. It was agreed before the BEPS project and so does not affect any of the BEPS Actions.

Executive bonuses blocked in bankrupt company

Less than six months after Virginia-based coal company **Alpha Natural Resources** filed for bankruptcy in a federal court, the **US Department of Justice** issued an official objection to a company plan to pay executive bonuses of $12m in 2016. The US Trustee division, which oversees Chapter 11 filings, issued an objection to a bankruptcy court, noting that the intended payments, to be made to 15 of the company's most highly compensated executives, was not only likely to violate bankruptcy laws, but that such payments could not be justified, given the reportedly dire financial state of the company.

"Alpha seeks relief while at the same time incurring more than $1.3bn in losses for 2015," the document noted, adding that Alpha would, in addition, be seeking "to cut off the health and life insurance benefits to 1,200 rank and file retirees because it claims it desperately needs to save $3m a year." The potential bonuses to be paid by Alpha in 2016 were higher than those paid to executives in the years leading up to the bankruptcy filing, the objection noted. The US Trustee noted that the metric being used by Alpha to generate the revenue for the proposed bonuses was "so easily met that Alpha has managed to do it most of the time it has been in bankruptcy, even while generating over $100m in losses during the same period."

Alpha, which refused to comment, recorded its last profit in 2011. It had 8,800 employees in 2014, operates 50 active mines and 20 coal preparation plants in Virginia, West Virginia, Kentucky, Pennsylvania, and Wyoming.

Further evidence from US that Eso works

The California based **National Center for Employee Ownership (NCEO)** published compelling evidence that employee share ownership, when adopted by US companies, often delivers higher employee engagement, productivity and profit levels.

Corey Rosen, a long-standing Centre friend, wrote in the NCEO's latest bulletin: "You've heard it over and over. Good companies create a sense of ownership among employees at work. They share financial information with employees at the corporate and work level, they encourage employees to contribute ideas, they set up employee teams, and they limit hierarchy. Creating a sense of ownership leads to high employee engagement and high engagement leads to higher performance. Research by the Gallup Organization finds that high engagement companies "experience 22 percent higher profitability and 21 percent higher productivity compared with workgroups with low levels of engagement.

"Study after study shows that combining employee engagement and broad-based employee ownership leads to much better performance. For instance, a study of companies with both employee stock ownership plans (ESOPs) and high engagement showed they grew six percent to 11 percent per year faster in terms of sales and employment than would have expected if they did not have either," said Corey.

A massive study of 780 companies that applied to be a Fortune Best 100 Companies to Work for in America similarly found that while engagement and ownership each have positive effects, the synergistic impact of the two is far greater. There is good reason for this. "As an owner, employees know that when they are asked–indeed expected–to think about what they and their colleagues can do to help the company thrive that the benefits are shared with them.

"Ownership is much more rewarding than profit sharing (albeit many companies providing a sense of ownership don't even do that). If employees create another $100,000 in profits each year, as a profit sharer they might get $10,000. But if company's share value equates to a five to one price to earnings ratio, that's $500,000 more in value.

"Ownership is deeply connotative. Sharing it is the most significant way possible to tell employees they really do matter. It tells managers at all levels that employees now have the right to share ideas and information. The biggest barrier to high engagement programmes is often reluctance of mid-level management to take that leap. Shared ownership makes it easier.

"There are lots of ways to share ownership broadly, many with substantial tax benefits. The employee ownership sector in the U.S. is now a major part of the economy. It can be a win-win for all involved," added Mr Rosen.

NCEO's first-ever ESOP transaction survey showed a number of trends in how companies structure, manage, and evaluate ESOP transactions. Data from the 240 companies that responded to the survey between February and September 2015 was the first attempt to gather the experiences of a large, diverse group of companies about the scope, management, and satisfaction with ESOP transactions. Some highlights of the findings include:

- The number of initial transactions for a minority of shares declined only slightly (from 44 percent of all transactions in 2010 and earlier to 40 percent after 2010).
- The number of initial transactions that involved 100 percent of the company shares increased dramatically, from 38 percent for 2010 and earlier to 56 percent for after 2010.
- Generally, it took responding companies six months to complete their transactions.
- The majority of transactions included in this data (72 percent) were leveraged, and of those 60 percent were funded entirely by loans.
- Almost half of the transactions (46 percent) used at least some seller financing.
- Many factors affect the cost of an ESOP transaction. Three that emerged from these results are the year of the transaction (more recent transactions are more likely to cost more), the number of services used and the percentage of shares purchased.

Big bonuses for some US bankers

JPMorgan Chase paid Jamie Dimon, its chairman and ceo, 35 percent more in 2015 than the previous year's compensation package, which was only narrowly approved by shareholders. Mr. Dimon received $27m, much of it in stock linked to the bank's performance, one week after it recorded a record profit of $24.4bn for the year.

Pay disclosures by Wall Street firms are closely watched, as many banks face pressure from shareholders to overhaul pay practices. That has caused many banks to shift more pay to deferred stock that will be given only if the company meets certain performance goals. JPMorgan is the first big bank to disclose 2015 compensation for its top executives. The annual disclosure about Mr. Dimon, who runs the biggest US bank in terms of assets, often sets the bar for the industry.

Overall compensation on Wall Street is down as firms grapple with volatile markets. At Goldman Sachs, where revenue slipped two percent last year, the amount of money set aside for employee pay was about the same as the previous year. At Morgan Stanley, compensation in the investment bank as well as the wealth management division declined.

A record year for mergers and acquisitions was one of the few bright spots for major banks as volatile markets, concerns about China and falling oil prices hurt trading businesses, said *Reuters*. However, banks are not uniformly rewarding their dealmakers amid a need to shave costs due to falling trading revenues, pedestrian growth elsewhere and regulatory pressure to curb compensation.

Meanwhile, **Barclays** new ceo Jes Staley wielded the axe at the investment bank to chop 1,200 jobs worldwide and shut securities operations across Asia. Bonuses will be cut back by at least ten percent this year. The bank is shutting its Russian office and cutting jobs in London and New York too.

M & A deal volume globally rose 42 percent to a record $4.7 trn, according to Thomson Reuters data, spurred by mega mergers like **Anheuser-Busch Inbev SA**'s $106 bn acquisition of **SABMiller** and oil major **Royal Dutch Shell**'s $70 bn purchase of **BG Group**. Merger fees worldwide, in turn, rose almost eight percent to $26 bn last year.

***Almost all Apple's** top team received a pay rise in 2015, according to a proxy statement filed with the Securities and Exchange Commission. While **Angela Ahrendts**, Apple's senior vp for retail and online stores, didn't get a rise, she's still getting the highest executive compensation at the company - US$26m last year. Her compensation in 2014 was $73m, but that was because Apple offered her a fat financial deal to jump ship from **Burberry**. By comparison, ceo Tim Cook's compensation in 2015 was $10.3m, up from $9.2m in 2014. However, Cook has large equity holdings in the company, which he was awarded when he became ceo. They include unvested shares worth $353m and equity incentives worth $193m.

Ahrendt has substantial stock holdings herself: unvested shares worth $42.5m and equity incentives worth $18.4m. Cfo Luca Maestri received compensation of $25.3m, an increase from $14.0m in 2014, the SEC filing showed. His stock holdings include unvested shares worth $36.1m and equity incentives worth $9.7m. Although Apple was a revenue and profit machine in 2015, its stock languished. Full-year revenues for the company were $233 bn and profits were more than one bn dollars a week at $53.4 bn. Yet its stock price dropped to $105 in December, slightly down on the year - and went down again recently. Apple's current executive team is responsible for destroying more than $480 bn in shareholder value, maintained Trip Chowdhry, md for equity research at **Global Equities Research**. "Should they be rewarded for destroying $480 bn of potential shareholder value?" he told the *E-Commerce Times*. "Their compensation is totally skewed." Apple's price-to-earnings ratio of 11.5 is half the S&P 500 average of 20.5, Chowdhry added. "The team should be compensated based on the P/E multiples. They shouldn't get bonuses until they match the market multiples. It's a classic scenario of executives self-congratulating themselves for a dismal performance. These executives are rewarding themselves for underperforming on every metric," Chowdhry continued. "If Steve Jobs were alive today, he would have gone bananas," he added.

Tax Reporting for French-qualified Awards

French affiliates of companies that grant stock options and/or restricted stock units (RSUs) to their employees in France that are tax-qualified under the French Commercial Code must fulfil certain tax reporting requirements to (i) the social security office (URSSAF), (ii) the beneficiary, and (iii) the French tax authorities, said lawyers *Jones Day*. Equity awards are generally considered tax-qualified in France if they are granted as part of a special French sub-plan and meet specific requirements. At the time of grant of the French tax-qualified stock options and/or RSUs, the French affiliate must report to the URSSAF (i) the name and address of each beneficiary, and (ii) the number and value of the options and/or shares granted.

By March 1 of the year following the year in which an employee exercises his or her French tax-qualified stock option and/or vests in his or her tax-qualified RSUs, the French affiliate must provide the employee with an individual statement. In the case of stock options, the individual statement provides (i) the French affiliate's corporate purpose, the location of its principal establishment, and/or the location of its registered office; (ii) the name and address of each employee; (iii) the exercise price of the exercised stock options; (iv) the number of shares acquired upon exercise of the stock options; (v) the date of grant and date of exercise of the stock options; (vi) the gain realised upon exercise; and (vii) the excess amount of the discount at the time of grant of the exercised stock options, if the discount exceeds five percent of the average trading price for the 20 trading days preceding the date of grant. For RSUs, the individual statement mostly requires the same information as listed above for tax-qualified stock options except that the data should be referenced from the vesting date for the RSUs. A copy of this individual statement must be sent to the tax office where it files its corporate tax return before March 1 of the year following the year in which an employee exercises the stock option and/or vests in his or her tax-qualified RSUs. In addition, French affiliates should report details about the exercise of French-qualified stock options and the vesting of French-qualified RSUs in the annual employer year-end declaration (the DADS) by February 1st of the following year after exercise and/or vests his or her RSUs. French employers must include in the DADS the same information as listed above for the individual statement. If the French affiliate of the issuer company has agms, the French affiliate should distribute a special report to its shareholders at its agm that lists the French-qualified stock option and RSU grants that have been made to the ten employees of the French affiliate who have received the most stock options and/or shares upon exercise/vesting of the awards as well as the corporate executives of the issuer company, its affiliates and the affiliated companies of the consolidated group.

UK Tax Reporting for Incentive Stock Options/Purchase Rights

For each tax year, which runs from April 6 in the UK, UK employers are required to file online a number of tax returns with HMRC covering equity grants made to their employees and the exercise or vesting of such rights. With the introduction of real-time information (RTI) reporting, employers are generally required to send to HMRC through the PAYE online details of every payment made to an employee on or before the date the payment is made. RTI reporting is required for taxable amounts that are withheld through payroll on stock option exercises and vesting of other stock awards, although reports of these withholdings must be made as soon as possible within 14 days of the end of the relevant tax month or the date that income tax and national insurance contributions (NIC) are deducted (whichever is earlier). HMRC has confirmed that RTI reporting must be applied to internationally mobile employees that have UK tax and NIC liabilities, even if paid by an overseas employer.

By July 6 2016, UK employers must file online too, through the PAYE online service, annual stock-related benefits reports about stock options and other stock purchase rights that have been granted and/or exercised and/or vested in the tax year ending April 5 2016. Separate annual returns must be filed online for each separately registered stock plan, whether tax-advantaged or non tax-advantaged. (All tax-advantaged stock plans must be separately registered online, but all non tax-advantaged stock plans may either be registered separately or under a single 'other' unique scheme registration number).

US Tax Reporting for Incentive Stock Options/Purchase Rights

US companies that grant incentive stock options (ISOs) to their U.S. employees or sponsor an ESPP in which their U.S. employees participate must deliver an annual information statement to those employees who have exercised their ISOs during that year or who have purchased shares of stock under an ESPP. For stock purchases that occurred in 2015, information statements must be delivered to employees by January 31 2016 and then filed with the IRS by either February 28 2016 or March 31 2016, depending on the filing format. If paper returns are filed with the IRS, the filing deadline is February 28 2016, whereas electronically filed returns, which are required for 250 or more returns, are due by March 31 2016. The information statement must provide the number of shares purchased, the exercise or purchase price, and the value of the shares transferred from the company to the participant, among other items. The information statement for exercised ISOs should be made on IRS Form 3921 and on Form 3922 for shares purchased under an ESPP.

The Employee Share Ownership Centre Ltd is a members' organisation which lobbies, informs and researches on behalf of employee share ownership